

**GOVERNMENT OF INDIA  
COMMUNICATIONS AND INFORMATION TECHNOLOGY  
LOK SABHA**

STARRED QUESTION NO:567

ANSWERED ON:16.05.2012

ILLEGAL PHONE TAPPING

Adsul Shri Anandrao Vithoba; Dharmshi Shri Babar Gajanan

**Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:**

- (a) whether a parallel system of recording calls through off-the-air GSM technology has been working as a form of illegal and passive mode of interception in the country;
- (b) if so, the details thereof;
- (c) whether the users of cell phones run the risk of having their calls illegally tapped through off-the-air GSM technology that is available off-the-shelf ;
- (d) if so, the details thereof;
- (e) whether illegal tapping of cell phones is a huge area of concern as it places the national security as well as privacy of citizens at major risk; and
- (f) if so, the steps taken by the Government to check the misuse of illegal phone tapping to ensure individual privacy and prevent threat to national security?

**Answer**

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT AND COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI KAPIL SIBAL)

(a) to (f) A Statement is laid on the Table of the House.

STATEMENT TO BE LAID ON THE TABLE OF THE LOK SABHA IN RESPECT OF PARTS (a) TO (f) OF LOK SABHA STARRED QUESTION NO. 567 FOR 16TH MAY, 2012 REGARDING "ILLEGAL PHONE TAPPING"

(a) & (b) Madam, technical equipments are available in the international market to intercept wireless (including GSM) communications off-the air passively.

(c) & (d) Potentially, the above equipment could be used to illegally tap wireless communications. However, phone tapping is governed by provisions of the section 5 (2) of Indian Telegraph Act, 1885 and the guidelines in this regard are prescribed under Rules 419A of Indian Telegraph (Amendment) Rules, 2007. Illegal tapping of a phone is a punishable act under Section 26 of Indian Telegraph Act, 1885 with imprisonment for a term which may extend up to three years, or with fine, or with both. Further Off-the-air monitoring equipment is wireless equipment and the unauthorized possession / keeping such equipment is against the provision of Section 3 & Section 6 of Indian Wireless Act, 1933 also. Such acts are also punishable with imprisonment which may extend up to three years, or with fine which may extend upto one thousand, or with both.

(e) & (f) Taking cognizance of the risks posed by such equipment, Government has taken the following steps:-

(i) Equipment which could be used to tap communications off-the air have been moved to 'Restrictive List' from the 'Open General Licence' (OGL) list vide Department of Commerce notification No. 53/2009-14 dated 15-07-2010.

(ii) A press release was given on 31.12.2010 and a public notice was issued on 22nd March' 2011 to create awareness that possession and use of such equipment is against the provisions of Indian Wireless Act, 1933 & Indian Telegraph Act, 1885 and is liable to be punished with imprisonment for the term which may extend up to three years or with fine, or with both.

It was also directed in the public notice that person(s) and companies who have/had imported, procured or possess equipment capable of monitoring/intercepting and surveillance of communications should provide details of such equipment in the prescribed format to respective Telecom Enforcement, Resources and Monitoring (TERM) Cells of Department of Telecommunications.

(iii) The proposal has been taken up for increasing financial penalty upto Rs. 2 crores for unlawful interception by amending Indian Telegraph Act, 1885.